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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/074,623 | 02/13/2002 | Yoshikazu Nakayama | 57A 3217 | 7348 |
| · · | 90 06/19/2003 | | | |
| KODA & ANDROLIA Suite 3850 | | | EXAMINER | |
| 2029 Century Park East Los Angeles, CA 90067-3024 | | | MEYER, DAVID C | |
| Los Aligeles, C | 3 90007-3024 | | ART UNIT | PAPER NUMBER |
| | | | 2878 | |
| | | | DATE MAILED: 06/19/2003 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary Examiner David C. Meyer Davi | | • | Application No. | cant(s) |
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| Examiner David C, Meyer David C, David | | Office Action Same | 10/074,623 | |
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| 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. 4) Claim(s) 1-6 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 1-6 is/are allowed. 6) Claim(s) 5-6 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on 13 February 2002 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. 12) The oath or declaration is objected to by the Examiner. 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) Acknowledgment is made of a claim for foreign priority documents have been received in Application No Copies of the certified copies of the priority documents have been received in Application No See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121. | - Externation after - If the - If NC - Failure - Any rearner | nsions of time may be available under the provisions of 37 CFR 1.1 SIX (6) MONTHS from the mailing date of this communication. e period for reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute reply received by the Office later than three months after the resilience. | 36(a). In no event, however, may a rep y within the statutory minimum of thirty will apply and will expire SIX (6) MONTI | oly be timely filed (30) days will be considered timely. HS from the mailing date of this communication |
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| Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other: | ☐ Notice of ☐ Informati | Draftsperson's Patent Drawing Review (PTO-948) on Disclosure Statement(s) (PTO-1449) Paper No(s) | | nary (PTO-413) Paper No(s) nal Patent Application (PTO-152) |
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Application/Control Number: 10/074,623

Art Unit: 2878

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- 2. Claims 5 and 6/5 are rejected under 35 U.S.C. 102(a) as being anticipated by Kley (US 6,252,226).

Regarding claim 5, Kley discloses a probe used in a data storage and retrieval system. The probe has structure that is functionally equivalent to that of the claimed invention. Fig. 18 illustrates an optical read/write probe comprising a cantilever 208, which has a protruding portion 216 formed of a conductive or semi-conductive material. This material can be made to emit light by applying an electrical current. (A photoemissive semiconductor is able to receive light as well.) The current is applied via a conductive film 252 made electrically continuous at the tip of the protruding portion of the cantilever. Near the tip, the conductive coating is thin to the point of transparency allowing light to be emitted when current passes between the sides of the conductive coating through the photo-emissive semiconductor tip. (Also, see column 17, line 8 to column 19, line 5.)

Regarding claim 6, the probe disclosed in Kley includes X, Y, and Z translation controls for scanning the probe relative to an object 104. These, and the electrical activation of the photo-emissive body at the probe tip, are controlled by controller 102.

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Allowable Subject Matter

3. Claims 1-4 are allowed. The following is an examiner's statement of reasons for allowance: The allowance is made in view of the specification. The prior art includes probe devices having nanotube tips or needles. But these are not applied with a circumferential light receiving and emitting body to which a conductive lead wire is fastened. It is understood that the recited conductive nanotube needle and the conductive lead wire apply an electric current across the light receiving and emitting body in order to cause it to emit and/or receive light.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fillard (US 5,770,856) discloses a probe that includes an opto-emitter and/or receiver. The tip of the probe may be formed of a light conductive nanostructure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Meyer whose telephone number is 703-305-7955. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on 703-308-4852. The fax phone numbers

for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0935.

DCM June 11, 2003

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800